IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 77 of 2004

Between:

Ch.Suresh, S/o Sri Sankaraiah,
R/o East Street, Gudur, Nellore District.

..... PETITIONER

AND

1 A.P.S.R.T.C. rep.by its Regional Manager, Nellore.
2 The Depot Manager, A.P.S.R.T.C. Gudur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in theaAffidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents herein in forfeiting the security deposit of the Petitioner Stall No.14 of Gudur main Bus Station, Nellore District is illegal, arbitrary, capricious apart from the willful act to circumvent of this Hon'ble Court and consequently direct the respondent herein to pay the security deposit made by the Petitioner forthwith

Counsel for the Petitioner: MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondents: MR.VENKATESWARLU POSANI

The Court made the following :

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W.P.No.77 OF 2004

ORDER:

Heard both sides.

The petitioner, who is a license-holder for running a stall, filed this writ petition, *inter alia,* seeking a writ of *mandamus* declaring the action of the respondents in forfeiting the security deposit of his stall No.14 situate in Gudur main bus station, Nellore district, as illegal.

The case of the petitioner, in brief, is that he was allotted shop No.14 in Gudur main bus station, to run refreshment stall. As the outsiders of Gudur town engaged hawkers and selling samossas in the bus depot premises, he gave a complaint to the respondents, who, in turn, issued a show cause notice dated 6.7.2002 for termination of his license. Though he gave a reply dated 14.07.2002, the first respondent passed an order dated 07.08.2002 terminating his license. Challenging the said order, the petitioner filed W.P.No.16420 of 2002, which was dismissed by this Court through orders dated 01.10.2002. Aggrieved by the same, the petitioner filed W.A.No.118 of 2003, whereunder, a Division Bench of this Court, through orders dated 25.04.2003, allowed the appeal setting aside the order dated 07.08.2002 and directing the respondents to restore the shop to the petitioner so as to enable him to make use of the un-expired period of lease. However, the respondents failed to comply with the abovesaid direction. Further, as the period of license was expired by 04.02.2004, the petitioner claimed refund of security deposit, but the respondents refused to refund the same. Hence, this writ petition.

Learned counsel for the petitioner submits that having regard to the orders dated 25.04.2003 passed by a Division Bench of this Court in W.A.No.118 of 2003, setting aside the order dated 07.08.2002 passed by the

first respondent, with a direction to restore the shop of the petitioner, the respondents ought not to have forfeited the security deposit.

Having heard the learned counsel for both the parties and having perused the material available on record, it is seen that the action of the respondents in trying to forfeit the security deposit is only in pursuance of the order dated 07.08.2002. However, as the said order was set at naught by this Court, through its order dated 25.04.2003, the question of forfeiting the same does not arise at all.

The writ petition is accordingly, allowed. However, having regard to the fact that the period of license is already expired, the respondents are directed to refund the said security deposit to the petitioner. No costs.

30.07.2004

ksld

To

1 A.P.S.R.T.C. rep.by its Regional Manager, Nellore.
2 The Depot Manager, A.P.S.R.T.C. Gudur, Nellore District.

3 Two CD copies.